

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review)	
)	
Brunswick County Schools)	File No. SLD-400512
Bolivia, North Carolina)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: April 21, 2005

Released: April 22, 2005

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Brunswick County Schools, Bolivia, North Carolina (Brunswick County).¹ Brunswick County seeks review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) denying Brunswick County's Funding Year 2004 application for discounted services under the schools and libraries universal service mechanism on the ground that Brunswick County violated the Commission's competitive bidding requirements.² For the reasons set forth below, we deny Brunswick County's Request for Review and affirm SLD's denial of Brunswick County's application.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.⁴ In accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an

¹Letter from Leonard Jenkins, Brunswick County Schools, to Federal Communications Commission, filed November 8, 2004 (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. 54.719(c).

²Letter from Schools and Libraries Division, Universal Service Administrative Company, to Leonard Jenkins, Brunswick County Schools, dated October 12, 2004.

³47 C.F.R. §§ 54.502, 54.503.

⁴47 C.F.R. §§ 54.504, 54.511(c).

FCC Form 470 requesting services.⁵ The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for the services ordered by the applicant.⁶ Once an applicant submits an FCC Form 470 and complies with the 28-day posting period, the applicant may enter into a contract at that time and, having complied with the competitive bidding requirements prior to entering into the service contract, need not submit any additional FCC Form 470s for the duration of that contract.⁷

3. Upon review of the record, we conclude that SLD correctly denied Brunswick County's request for support. The record shows that Brunswick County's service provider agreement was signed on January 15, 2002, which was almost two years prior to the allowable contract date of December 30, 2003 on the establishing FCC Form 470.⁸ During the Program Integrity Assurance Review process, Brunswick County confirmed that the establishing FCC Form 470 was Form 470 #177240000475096.⁹ In its Request for Review, Brunswick County admits that the contract award date predates the allowable contract date, but argues that its funding request was for the continuation of a multi-year contract.¹⁰ We do not find this to be a sufficient basis to grant the instant Request for Review.

4. A signature date on an FCC Form 471 or on a service provider agreement that predates the expiration of the 28-day posting period indicates that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the Commission's competitive bidding rules.¹¹ The Wireline Competition Bureau has consistently denied requests for review by applicants that have violated the Commission's competitive bidding rules by signing the FCC Form 471 or service

⁵See Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470).

⁶47 C.F.R. § 54.504(c); *see also* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

⁷*Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 6732 (1999) ("We conclude that permitting a school or library to commit to a long-term contract after participating in the competitive bidding process does not compromise the benefits derived from competition. As long as all providers have had the opportunity to compete for the same contract, schools or libraries can enter into renewable contracts of any length or form, as permitted by state law.")

⁸See Request for Review at Attachment 3; FCC Form 471, Brunswick County Schools, filed January 17, 2004; FCC Form 470, Brunswick County Schools, posted December 2, 2003 (Form 470 #177240000475096). *See also* 47 C.F.R. § 54.504(b), (c) (providing that applicants must file with the Administrator, for posting on its website, the Form 470 requesting services and wait 28 days after posting before entering into an agreement with a service provider for the requested services and submitting the FCC Form 471).

⁹E-mail from Leonard Jenkins, Brunswick County Schools, to Bob Hellwig, Schools and Libraries Division, Universal Service Administrative Company, dated June 16, 2004. During the Program Integrity Assurance Review process, SLD reviews each form carefully to ensure that discounts are for eligible services provided to eligible entities for eligible uses, according to Commission rules. *See* <http://www.sl.universalservice.org/reference/6pia.asp>.

¹⁰Request for Review at 1.

¹¹47 C.F.R. §§ 54.504(b), (c); § 54.511; Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, FCC Form 471, OMB 3060-0806 (October 2000). *See also Request for Review by Minor High School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-139210, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 13790, 13792 (Com Car. Bur. 2000).

provider agreement before the allowable contract date.¹² In light of the thousands of applications that SLD must review and process each year, we find that it is administratively necessary to require applicants to provide accurate information on their applications and comply with program rules and procedures.¹³ We therefore deny Brunswick County's Request for Review.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Brunswick County Schools, Bolivia, North Carolina, on November 8, 2004, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

¹²See, e.g., *Request for Review by Currituck County Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-111040, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 5564 (Com. Car. Bur. 2000); *Request for Review by Gustine Independent School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-108651, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 8489 (Com. Car. Bur. 1999).

¹³See *Request for Review by Anderson School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612-13, para. 8 (Com. Car. Bur. 2000).